

USIA will proceed in any actions taken in accordance with applicable requirements found in the sources referred to in paragraphs (a)(1), (2), and (3) of this section.

§ 512.5 Other procedures.

Nothing contained in this regulation is intended to require USIA to duplicate administrative proceedings required by contract or other laws or regulations.

§ 512.6 Informal action.

Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 512.7 Return of property.

Nothing contained in this regulation is intended to deter USIA from demanding the return of specific property or from demanding the return of the property or the payment of its value.

§ 512.8 Omissions not a defense.

The failure of USIA to comply with any provision in this regulation shall not serve as a defense to the debt.

Subpart B—Administrative Offset and Referral to Collection Agencies

§ 512.9 Demand for payment.

Prior to initiating administrative offset, demand for payment will be made as follows:

(a) Written demands will be made promptly upon the debtor in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, USIA will give due regard to the need to act promptly so that, as a general rule, debt referrals to the Department of Justice for litigation, where necessary, can be made within one year of the Agency's final determination of the fact and the amount of the debt.

When necessary to protect the Government's interests (e.g., to prevent the statute of limitations, 28 U.S.C. 2415, from expiring) written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of: The basis for the indebtedness and the right of the debtor to request review within the Agency; the applicable standards for assessing interest, penalties, and administrative costs (Supart D of this regulation) and; the date by which payment is to be made, which normally will not be more than 30 days from the date that the initial demand letter was mailed or hand delivered. USIA will exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated.

(c) As appropriate to the circumstances, USIA will include in the demand letters matters relating to alternative methods of payment, the debtor's rights to representation by his respective bargaining unit, policies relating to referral to collection agencies, the Agency's intentions relative to referral of the debt to the Department of Justice for litigation, and, depending on the statutory authority, the debtor's entitlement to consideration of waiver.

(d) USIA will respond promptly to communications from the debtor and will advise debtors who dispute the debt that they must furnish available evidence to support their contention.

§ 512.10 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these regulations on all claims which are liquidated and certain in amount, in every instance where the appropriate Agency official determines such collection to be feasible and not otherwise prohibited.

(1) For purpose of this section, the term *administrative offset* has the same meaning as provided in 31 U.S.C. 3716(a)(1).

(2) Whether collection by administrative offset is feasible is a determination to be made by the Agency on a case-by-case basis, in the exercise of

sound discretion. USIA will consider not only the practicalities of administrative offset, but whether such offset is best suited to protect and further all of the Government's interests. USIA will give consideration to the debtor's financial condition, and is not required to use offset in every instance where there is an available source of funds. USIA will also consider whether offset would tend to substantially disrupt or defeat the purpose of the program authorizing the payments against which offset is contemplated.

(b) Before the offset is made, a debtor shall be provided with the following: written notice of the nature and the amount of the debt and the Agency's intention to collect by offset; opportunity to inspect and copy Agency records pertaining to the debt; opportunity to obtain review within the Agency of the determination of indebtedness; and opportunity to enter into written agreement with the Agency to repay the debt. USIA may also make requests to other agencies holding funds payable to the debtor, and process requests for offset that are received from other agencies.

(1) USIA will exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination will weigh the Government's interest in collecting the debt against fairness to the debtor.

(2) In cases where the procedural requirements specified in this paragraph (b) have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to an audit allowance, the Agency is not required to duplicate those requirements before taking administrative offset.

(3) USIA may not initiate administrative offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect the debt. When the debt first accrued is to be determined according to existent law re-

garding the accrual of debts (e.g., 28 U.S.C. 2415).

(4) USIA is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to: Debts owed by any State or local Government; debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954 or the tariff laws of the United States; or any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. Unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(5) USIA may effect administrative offset against a payment to be made to a debtor prior to completion of the procedures required by paragraph (b) of this section if failure to take offset would substantially prejudice the Government's ability to collect the debt, and the time before the payment is to be made does not reasonably permit the completion of those procedures. Amounts recovered by offset but later determined not to be owed to the Government shall be promptly refunded 30 days after the Agency has notified the debtor in writing that the debt is not owed. Such written notification will be issued within 15 days after the Agency has confirmed through a review of its official records that the debt is not owed.

(c) Type of hearing or review: (1) For purposes of this section, whenever USIA is required to afford a hearing or review within the Agency, the Agency will provide the debtor with a reasonable opportunity for an oral hearing when: An applicable statute authorizes or requires the Agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of veracity; or the debtor requests reconsideration of the debt and the Agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence. Unless otherwise required by law, an oral hearing

under this section is not required to be a formal evidentiary type hearing.

(2) This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of veracity and the Agency has determined that the review of the written record is ordinarily enough to correct prior mistakes.

(3) In those cases where an oral hearing is not required by this section, the Agency will make its determination on the request for waiver or reconsideration based upon a review of the written record.

(d) Appropriate use will be made of the cooperative efforts of other agencies in effecting collection by administrative offset. USIA will not refuse to initiate administrative offset to collect debts owed the United States, unless the requesting agency has not complied with the applicable provisions of these standards.

(e) Collection by offset against a judgment obtained against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes the debt (including the amount) and that full compliance with the provisions of this section has taken place.

(g) When collecting multiple debts by administrative offset, USIA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying particular attention to the applicable statutes of limitations.

§ 512.11 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, USIA may request that monies that are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order

to collect in one full payments, or a minimal number of payment, debts owed the United States by the debtor. Such requests shall be made to the appropriate officials within the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, USIA shall include written statements that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The USIA has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The USIA has complied with the requirements of § 512.10 of this part, including any required hearing or review.

(c) Once USIA decides to request offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations.

(d) If USIA collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, USIA shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the USIA determination relative to the amount and validity of the debt, its determination on waiver under an applicable statute, or its determination whether to provide an oral hearing.

§ 512.12 Collection in installments.

(a) Whenever feasible, and except as required otherwise by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation, should be collected in one lump sum. This is true whether the debt is being